

WITNESSES: TRAVEL EXPENSES

House Bill 4414 as passed by the House Second Analysis (1-13-00)

**Sponsor: Rep. Ruth Johnson
Committee: Family and Civil Law**

THE APPARENT PROBLEM:

The Revised Judicature Act provides for the payment of fees to all witnesses who attend any actions before a court of record or who attend inquests or other proceedings before a person authorized to take the examination of witnesses. In addition to the \$15 maximum fee for loss of working time, the act provides for these witnesses to be paid ten cents per mile for traveling expenses. The act's per mile traveling expense has not been increased since 1963, according to the sponsor. The rate is thought to be inadequate, especially compared with the rates paid by other business and government entities for travel reimbursement. For example, currently, the House of Representatives pays a standard rate of 25.75 cents per mile for travel reimbursement, and the state officers and unclassified employees of state agencies are reimbursed 31.0 cents per mile. Legislation has been introduced to provide for an increase in the rate at which certain witnesses are reimbursed and to tie it to another rate so that it will more accurately reflect what might be considered a "going rate."

THE CONTENT OF THE BILL:

The Revised Judicature Act provides for the payment of fees to witnesses who attend any actions before a court of record or who attend inquests or other proceedings before a person authorized to take the examination of witnesses. In addition to the \$15 maximum fee for loss of working time, the act provides for these witnesses to be paid ten cents per mile for traveling expenses. Under the bill, as of January 1, 2000, instead of ten cents per mile, witnesses would be paid the same per-mile rate as is paid to state officers and unclassified employees of state agencies while engaged in state business as specified by the directives of the Department of Management and Budget (currently, 31.0 cents per mile). However, the increase would not apply to witnesses who appeared in any criminal proceeding or prosecution on behalf of the people or an indigent defendant; the mileage payments for such witnesses are separately established in the Code of Criminal Procedure (MCL 775.13 and 775.15) and continue to be set at ten cents per mile. The bill

would also specifically exempt the payment of witnesses for the prosecution and payment for a witness from another state or from a foreign country, or one who is poor as directed by the court.

MCL 600.2552

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have an indeterminate fiscal impact. (1-13-00)

ARGUMENTS:

For:

Thirty-five years is a long time to go without an increase in the mileage rate paid to witnesses, and as a result, it is unlikely that the current rate comes close to a being fair. The federal rate is 31 cents per mile -- more than three times what is currently paid to witnesses under Michigan law. It is long since time to change this law and to make certain that the rates paid to witnesses are more reasonable given current costs. Further, by tying the rate to those paid to state employees and others, the bill will help prevent the rate from going another 35 years before it is increased again.

Against:

Concerns have been raised that the bill's impact could be considerably more far reaching than was intended. A large number of other acts set their fees by reference to the rate paid to witnesses in the circuit courts. As a result, this bill would change not only the rates for witnesses in the circuit court cases, but additionally would affect the fees paid to witnesses in a number of non-circuit court situations. These non-court actions would include witnesses summoned or subpoenaed before the Agricultural Marketing and Bargaining Board (MCL 290.725); the Public Service Commission (MCL 462.23); the Department of Transportation (MCL 462.153); the Department of Natural Resources (MCL 324.20117); or the attorney

general in performing investigations under the Natural Resources and Environmental Protection Act (324.33927); inspections and investigation under the Michigan Occupational Safety and Health Act (MCL 408.1209); and people who are subpoenaed in election recounts (MCL 168.886). While in civil cases the responsibility for making this payment will be up to the party calling the witness, the cost for the administrative hearings will presumably be borne by the state. As a result, the fiscal implications of the bill could be quite far-reaching.

POSITIONS:

There are no positions at this time.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.